THE ALL ENGLAND LAW REPORTS

Tables and Index 1981

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Cases reported and considered
Practice directions and notes
Statutes considered
Words and phrases considered
Subject index

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Introduction

The Tables and Index 1981 covers all the cases reported in the three volumes of the All England Law Reports for 1981.

The tables and index consist of five sections:

- a table of cases reported and judicially considered; this table lists alphabetically all cases reported in the All England Law Reports in 1981, and in addition it lists all cases of any date which have been reported in the All England Law Reports and the All England Law Reports Reprint and which were judicially considered, ie applied, distinguished, overruled and so on, in cases reported during 1981
- a table of practice directions and notes
- a table of statutes judicially considered
- a table of words and phrases judicially considered
- a subject index, including a full system of cross-references, of all cases reported in 1981.

The Tables and Index 1981, when used in conjunction with the three volumes of the Consolidated Tables and Index 1936–1976 and the Cumulative Tables and Index 1977–1980, provides a complete index of cases reported in the All England Law Reports from 1936 to the end of 1981, and is issued pending publication early in 1982 of a new Consolidated Tables and Index 1936–1981 which will incorporate in three volumes a complete index to the All England Law Reports from 1936 to 1981 along the same lines as the new style of index to the series so successfully introduced in 1977.

This index is separate from the 1981 volumes of the All England Law Reports and should therefore *not* be sent in for binding with the loose parts of the reports.

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ABATEMENT NOTICE
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British Airports Authority—
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Validity—Natural justice—Deportation recommended by trial judge on defendant's conviction of criminal offences—Deportation ordered at conclusion of defendant's four and a half year prison sentence—Defendant not showing that recommendation or order unfair—Whether Secretary of State under absolute duty to disclose all information on which he based deportation order—Whether defendant denied natural justice. **R v Secretary of State for the Home Department, ex parte Santillo** [1981] 2 897, CJEC, QBD & CA.
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Factors to be considered by court when deciding whether to grant leave—Arbitration Act 1979, s 1. **Pioneer Shipping Ltd v BTP Tioxide Ltd** [1981] 2 1030, HL.
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Injunction restraining claimant from proceeding with arbitration—Delay—Rescission—Frustration—Neither party taking any action in arbitration for eight years—Whether parties impliedly agreeing to terminate arbitration agreement—Whether agreement rescinded—Whether agreement frustrated because delay making fair arbitration impossible. **André and Cie SA v Marine Transocean Ltd** [1981] 2 993, CA.

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Citizen's right to arrest another person breaking or threatening to break the peace. **Albert v Lavin** [1981] 3 878, HL.
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Power to enter (if need be by force) place to effect arrest—Force—Meaning—Criminal Law Act 1967, s 2(6). **Swales v Cox** [1981] 1 1115, QBD.
Power to enter (if need be by force) place to effect arrest—Place—Private dwelling house—Whether request for permission to enter precondition of entry—Criminal Law Act 1967, s 2(6). **Swales v Cox** [1981] 1 1115, QBD.

ARREST (cont)
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Requirement that person arrested be taken before magistrates' court as soon as practicable—'As soon as practicable'—Meaning—Magistrates' Courts Act 1952, s 38(4). **R v Holmes, ex parte Sherman** [1981] 2 612, QBD.
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Duty of bank on presentation of documents—Non-conforming documents—Bill of lading falsely and fraudulently completed by shipping agent—Beneficiary presenting documents in good faith—Bank aware of falseness—Whether bank obliged to refuse payment—Whether beneficiary's good faith relevant. **United City Merchants (Investments) Ltd v Royal Bank of Canada** [1981] 3 142, CA.

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Debtor wanting to set up counterclaim equalling or exceeding judgment debt after expiry of ten days from date of notice—Debtor applying for extension of time to file affidavit setting up counterclaim—Whether jurisdiction to extend time after expiry of ten days and act of bankruptcy committed—Bankruptcy Act 1914, ss 1(1)(*g*), 109(4)—Bankruptcy Rules 1952 (SI 1952 No 2113), rr 138, 139. **Re a Debtor (No 6864 of 1980, High Court)** [1981] **2** 987, CA.
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Release of trustee—
Application to set aside release—Release improperly obtained—Notice required to be sent to creditor not sent to creditor's address on proof but to his socicitors—Creditor applying to court to reverse order releasing trustee—Effect of release—Whether trustee obliged to send notice to creditor at address on proof—Whether trustee can send notice to different address provided he clearly indicates exactly what he has done—Whether court should reverse order releasing trustee—Bankruptcy Act 1914, s 93(1)(3)—Bankruptcy Rules 1952 (SI 1952 No 2113), r 341. **Singer v Trustee of the property of Munro (a bankrupt)** [1981] **3** 215, ChD.

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Interest in settled property—
Tax avoidance scheme—Taxpayer purchasing reversionary interest—Interest split into two parts—Part appointed to another settlement and later sold at a non-taxable profit—Taxpayer selling remainder of interest at a loss—Profit matching loss—Whether taxpayer selling whole of reversionary interest despite decrease in value of assets in interest—Whether appointed assets remaining part of reversionary interest—Finance Act 1965, Sch 7, para 13(1). **W T Ramsey Ltd v Inland Revenue Comrs** [1981] 1 865, HL.

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Trustees of settlement appointing part of trust fund of settlement to different beneficiaries under different trusts—Transfer of beneficial interests in residue of fund to two Cayman Island companies—Replacement of trustees of original fund by Cayman Island trustees—Beneficial interests assigned to Cayman Island companies becoming vested in one company and that company becoming absolutely entitled as against Cayman Island trustees—Whether separate settlement created in respect of appointed fund—Finance Act 1965, s 25(1)(3)(11), Sch 10, para 12(1). **Roome v Edwards (Inspector of Taxes)** [1981] 1 736, HL.
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Self-cancelling transactions—
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CAPITAL TRANSFER TAX
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Right to take water from source of supply in river authority area—
Effect on easement of statutory restrictions on abstracting water from source of supply—Easement at common law to abstract water from pond in river for purposes of dominant owner's farm at date statutory restrictions came into effect—Less than 1,000 gallons abstracted on any one occasion but aggregate amount abstracted exceeding 1,000 gallons—Whether statutory restrictions altering right to easement—Whether restrictions enforceable by servient owner—Whether succession of abstractions on separate occasions constituting 'a series of operations' to abstract more than 1,000 gallons—Water Resources Act 1963, ss 23(1), 24(1). **Cargill v Gotts** [1981] 1 682, CA.
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Injunction restraining removal of assets out of the jurisdiction—Variation of injunction—Variation to permit release of part of assets to pay defendant's legal costs of proceedings—Burden of proof on defendant to obtain release of assets—Defendant adducing evidence that he was likely to incur substantial legal costs but not that he had no other assets available to pay costs—Whether injunction should be varied. **A v C (No 2)** [1981] **2** 126, QBD.
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Sickness benefit—Benefit in respect of period in prison or detention in legal custody—Claim for benefit while claimant serving prison sentence in Irish Republic—Whether claimant disqualified from receiving benefit while imprisoned abroad—National Insurance Act 1965, s 49(1)(*b*). **R v National Insurance Comr, ex parte Warry** [1981] 1 229, QBD.
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Person being rescued creating danger—Passenger attempting to board train while it was moving—Rescuer attempting to assist passenger aboard—Both passenger and rescuer falling off train—Rescuer injured—Whether person being rescued owing duty of care to rescuer. **Harrison v British Railways Board** [1981] 3 679, QBD.
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Surveyor and valuer—Valuation report to building society—Surveyor's report stating that property adequate security for amount of loan sought by purchaser of property—Building society offering to lend that amount to purchaser in reliance on report—Surveyor negligent in failing to discover defects in foundations of property—Property inadequate security for loan—Purchaser accepting building society's offer and purchasing property—Whether surveyor liable to purchaser for negligent statement in report to building society—Whether relationship between surveyor and purchaser sufficiently proximate for duty of care to arise. **Yianni v Edwin Evans & Sons (a firm)** [1981] 3 592, QBD.
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NUISANCE (cont)
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Building converted into flats—Roof terrace constructed above plaintiff's flat—Roof terrace so constructed as to allow noise to penetrate to flat below—Tenant in occupation of terrace using it in normal way and for purpose contemplated by lease—Tenant's use of terrace interfering with use and enjoyment by plaintiff of his flat—Roof terrace constructed by landlord's predecessor in title—Landlord taking assignment of reversion with knowledge of disturbance created by use of roof terrace—Plaintiff's lease containing covenant for quiet enjoyment—Whether landlord liable for nuisance. **Sampson v Hodson-Pressinger** [1981] 3 710, CA.
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Proceedings against local authority—Expenses of complainant—Nuisance abated at date of hearing of complaint—Whether complainant entitled to reasonable expenses—Public Health Act 1936, ss 94(3), 99. **Coventry City Council v Doyle** [1981] 2 184, QBD.
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Date to be considered by justices in deciding whether nuisance exists—Whether relevant date is date of complaint or date of hearing by justices—Public Health Act 1936, s 94(2). **Coventry City Council v Doyle** [1981] 2 184, QBD.
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Recognition of foreign decree—
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Slogans and themes made familiar to market in radio and television advertising campaign—Whether plaintiff acquiring an intangible property right in advertised descriptions. **Cadbury Schweppes Pty Ltd v Pub Squash Co Pty Ltd** [1981] **1** 213, PC.
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Slogans and themes made familiar to market in radio and television advertising campaign—Whether plaintiff acquiring of an intangible property right in advertised descriptions. **Cadbury Schweppes Pty Ltd v Pub Squash Co Pty Ltd** [1981] **1** 213, PC.

PASSING OFF (cont)
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Actual or apprehended breach of peace—Protesters obstructing survey of site for nuclear power plant—Protest peaceful and non-violent—Whether police having power to remove or assist in removal of protesters. **R v Chief Constable of the Devon and Cornwall Constabulary, ex parte Central Electricity Generating Board** [1981] 3 826, CA.

POLICE (cont)
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Intermediate power vested in trustees—Discretionary power to appoint to anyone in the world except specified class—Whether power invalid as being too wide. **Re Hay's Settlement Trusts** [1981] **3** 786, ChD.

PRACTICE
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Summons by defendant applying for order setting aside writ alleging court lacked jurisdiction—Non-compliance with rules for application—Failure to state 'grounds' of application in summons—Failure to serve supporting affidavit with summons—Failure to apply within prescribed time limit for extension of time for serving affidavit—Whether summons a nullity—Whether acknowledgment of service amounting to submission to jurisdiction—Whether court having discretion to treat failure to comply with rules as irregularities and to allow summons to proceed—Whether requirement of 'application to court' within prescribed period requiring only issue of summons within prescribed period—RSC Ord 2, r 1(1)(2), Ord 12, r 8(1)(2). **Carmel Exporters (Sales) Ltd v Sea Land Services Inc** [1981] **1** 984, QBD.
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Revised practice—Fridays to be devoted to dealing with summonses and other short but urgent matters—Tuesdays no longer to be summons days—New system to be operated flexibly to avoid difficulties—Parties to notify Commercial Court office of changes in estimated lengths of summonses etc—Counsels' clerks to notify office where counsel involved in more than one summons listed for a particular date—Existence of, and suggestions for dealing with, difficulties arising from new practice to be notified to Commercial Court Committee or Commercial Court office. **Practice Direction** [1981] **3** 864, QBD.
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Discontinuance by plaintiff—
Action brought in England claiming damages for personal injuries—Defendant ordered to make interim payments on admitting liability—Plaintiff commencing action in America in hope of getting higher damages—Plaintiff purporting to discontinue English action—Defendant applying for order to strike out notice of discontinuance and for injunction to restrain plaintiff continuing proceedings in America and commencing other proceedings there or elsewhere—Whether notice of discontinuance should be struck out—Whether injunction should be granted—RSC Ord 21, r 2(1). **Castanho v Brown and Root (UK) Ltd** [1981] 1 143, HL.
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Dismissal of action as abuse of process of court. *See* **Action** (Dismissal—Abuse of process of court).
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Applications affecting other parties as well as immediate parties to applications—Undesirability of leaving applications outstanding indefinitely—Applications to be entered in Special Paper List—Applications to be dismissed if not prosecuted without delay—RSC Ord 94. **Biggins v Secretary of State for the Environment** [1981] 1 1200, QBD.
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Family Division—
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Use in court. *See* Tape recorders—Use of tape recorders in court *post*.
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Generally. *See* **Injunction**.
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Property subject-matter of action or in respect of which question arising—
Privilege against self-incrimination—Interlocutory motion—Ex parte application—Order requiring disclosure of information—Defendants pirating films and selling unauthorised video cassettes—Defendants ordered to disclose information regarding pirating and selling cassettes—Information likely to result in defendants being prosecuted for conspiracy to defraud—Whether defendants entitled to claim privilege against self-incrimination in respect of disclosure of information. **Rank Film Distributors Ltd v Video Information Centre** [1981] 2 76, HL.
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Discretion of court to award—
Inherent equitable jurisdiction—Whether jurisdiction to award interest in simple action for debt. **Alex Lawrie Factors Ltd v Modern Injection Moulds Ltd** [1981] 3 658, QBD.
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Infringement of copyright—Claim for injunction and damages—Member of class which produced, made or distributed most of sound recordings in country suing on behalf of itself and the other members of the class—Sale of pirate recordings—Defendant admitting infringements of copyright and assertions as to members of class—Whether member of class entitled in representative capacity to injunction and to inquiry as to damages. **EMI Records Ltd v Riley** [1981] 2 838, ChD.
Payment into court—
Joint or alternative claims—
Defendants sued jointly or in the alternative—Payment in by one of several defendants—Plaintiff bringing action against architect and builder for defective work—Mutual or overlapping items in claims against architect and builder—Payment in by builder accepted by plaintiff in satisfaction of claim against builder—Whether architect and builder 'sued jointly or in the alternative' in respect of mutual or overlapping items—Whether acceptance of payment in by builder barring claim against architect—RSC Ord 22, r 3(4). **Townsend v Stone Toms & Partners (a firm)** [1981] 2 690, CA.
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Interlocutory fees—Accident cases—Scale of fees to be allowed on taxation. **Practice Direction**. [1981] 3 480, Sup Ct Taxing Office.
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PRACTICE (cont)
Service out of the jurisdiction—
Action on contract governed by English law—
Proper law of contract—Time for determining proper law of contract—Claim in respect of general average contribution—Lloyd's average bond executed in Algeria between Cypriot shipowner and insurers of Algerian consignees—Bond not stating law governing contract and not incorporating terms of bill of lading—Parties having no connection with England—Bill of lading giving shipowner right to nominate venue for adjustment of general average—Shipowner arranging for adjustment in London—Shipowners claiming against insurers in England—Whether designation of London by shipowners under bill of lading making English law the proper law of the contract under the bond RSC Ord 11, r 1(1)(*f*)(iii). **Armar Shipping Co Ltd v Caisse Algérienne d'Assurance et de Réassurance** [1981] **1** 498, CA.
Setting aside consent order. *See* **Judgment** (Order—Consent order—Interlocutory order—Setting aside).
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Charterers' duty to designate and procure berth reachable on arrival—Delay after arrival of vessel at port—Delay due to all berths being occupied—Charterers not responsible for delay—Charterparty providing that delay in getting into berth for any reason outside charterers' control not to count as used laytime—Vessel detained for over nine days before getting a berth—Whether delay over which charterer had no control—Whether charterers in breach of warranty to designate and procure berth reachable on arrival of vessel—Whether charterer exempted from liability for demurrage for delay—Exxonvoy 1969 charterparty, cll 6, 8, 9. **Nereide SpA di Navigazione v Bulk Oil International Ltd, The Laura Prima** [1981] 3 737, HL.
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Lien for non-payment of hire—Exercise of lien—Charterparty entitling owner to exercise lien on cargo for amounts due under charter—Uncertainty whether cargo belonging to charterer or to third party—Bill of lading incorporating charterparty—Charterer ordering vessel to port of discharge to discharge—Owner threatening to withdraw vessel for non-payment of hire but ordering her to anchor off port of discharge—Owner purporting to exercise lien while vessel at anchorage—Whether lien properly exercised—Whether lien applicable to cargo—Whether denial of possession—Whether lien exercisable at anchorage or only at place of discharge in port. **Santiren Shipping Ltd v Unimarine SA, The Chrysovalandou-Dyo** [1981] 1 340, QBD.
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Non-payment of hire—Lien. *See* Time charterparty—Hire—Lien for non-payment of hire, *ante*.
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Rent—Family home purchased in joint names on trust for sale by man and woman living together—Relationship breaking down and woman leaving home because of man's violence—Some of children of family living with man in home—Whether man liable to pay occupation rent to woman—Whether he excluded woman from home—Whether rent to be assessed on basis of man having protected tenancy of house and liable to pay half the fair rent for the whole property to the woman—Whether, though order for sale of house could not be made because prime object of trust for sale was to provide family home, order for payment of occupation rent could be made under Law of Property Act 1925, s 30. **Dennis v McDonald** [1981] 2 632, FamD.

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Time expired permission—New application—Whether time expired permission a material consideration to be taken into account—Town and Country Planning Act 1971, s 29(1). **South Oxfordshire District Council v Secretary of State for the Environment** [1981] **1** 954, QBD.
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Purchaser calling for delivery of goods and vendor appropriating those goods to contract and delivering them—Delivery accompanied by invoice charging higher price than contract price—Whether vendor 'supplying' or 'offering to supply' goods—Whether separate offences—Whether vendor 'offering to supply' goods and giving 'indication' in contract that goods were offered at price lower than that charged—Whether vendor 'supplying goods' and merely stating wrong price in invoice—Trade Descriptions Act 1968, s 1(1)(*b*), 6, 11(2). **Miller v FA Sadd & Son Ltd** [1981] **3** 265, QBD.
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Meaning of trade description—
Indication of history including previous ownership or use—Previous use—Motor car—Mileage—Mileage recorded on odometer substantially less than actual mileage—Trader unaware of true mileage—Estimated mileage included by him in contract of sale—Estimated mileage substantially less than actual mileage—Whether estimate a false trade description—Trade Descriptions Act 1968, ss 2(1), 3(3). **Holloway v Cross** [1981] **1** 1012, QBD.

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In contemplation or furtherance of—
Claim by party that he acted in furtherance of trade dispute—Secondary action in furtherance of dispute—Policy of television technicians' union that television stations should not buy in ready-made programmes from outside—Plaintiffs making programmes and agreeing to sell them to television station—Union blacking programmes—Whether union acting in contemplation or furtherance of 'trade dispute'—Whether union's action amounting to interference with plaintiffs' trade or business by unlawful means—Trade Union and Labour Relations Act 1974, ss 13, 29—Employment Act 1980, s 17. **Hadmor Productions Ltd v Hamilton** [1981] **2** 724, CA.

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TRADE UNION
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Impartiality—Whether disciplinary committee of professional society capable of considering fairly a charge of misconduct brought against fellow member of society. **Re S (a barrister)** [1981] 2 952, Visitors of Inner Temple.
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Misconduct rendering convicted person unfit to be on register of society—Effect of conditional discharge on conviction—Whether disciplinary committee prohibited from hearing evidence of facts leading to conviction in support of complaint of misconduct—Whether maxim that person not to be punished twice for same offence applicable to disciplinary committee proceedings—Powers of Criminal Courts Act 1973, s 13(3). **R v Statutory Committee of the Pharmaceutical Society of Great Britain, ex parte Pharmaceutical Society of Great Britain** [1981] 2 805, QBD.

TRINIDAD AND TOBAGO
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Remuneration of trustee—
Approval by court for increase in fees of corporate trustee—
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TRUST AND TRUSTEE (cont)
Remuneration of trustee (cont)—
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Circumstances in which court will exercise jurisdiction to award remuneration—Director-trustee—Settlement comprising shares in companies—Trustees of settlement appointed directors of companies—Whether trustee directors entitled to retain director's fees—Whether court having jurisdiction to authorise future retention of director's fees. **Re Keeler's Settlement Trusts, Keeler v Gledhill** [1981] 1 888, ChD.
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Dismissal in connection with strike or other industrial action—
Dismissal not unfair unless one or more employees of same employer who also took part in the action were not dismissed—
Relevance of dates when other employees took part in action—Relevant employee not dismissed at same time as strikers but later dismissed for redundancy—Whether for applicant's claim to be barred relevant employee required to be dismissed while on strike—Whether applicant's claim barred if relevant employee dismissed by the time claim heard—Employment Protection (Consolidation) Act 1978, s 62(2)(*a*). **McCormick v Horsepower Ltd** [1981] 2 746, CA.
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Relevant employee—Applicant's union going on strike—Another employee belonging to different union voluntarily refusing to cross picket line—Other employee not dismissed—Whether other employee a 'relevant employee' for purposes of determining whether applicant's claim for unfair dismissal barred—Employment Protection (Consolidation) Act 1978, s 62(4)(*b*). **McCormick v Horsepower Ltd** [1981] 2 746, CA.
Right not to be unfairly dismissed—
Restriction on right where employee reaches normal retiring age or specified age—
Normal retiring age—Determination—Employee's contract providing for compulsory retirement at 60 unless conditions relating to efficiency and health complied with—Evidence that majority of employees retained beyond age of 60—Whether normal retiring age 60—Whether employee unfairly dismissed because compulsorily retired at 60 on ground of health—Trade Union and Labour Relations Act 1974, Sch 1, para 10(*b*). **Post Office v Wallser** [1981] 1 668, CA.
Normal retiring age—Determination—Normal retiring age depending on express or implied conditions of service—Conditions of service specifying minimum retirement age but permitting discretionary extension—Retirement age extended in many cases—Whether minimum retirement age the normal retiring age—Trade Union and Labour Relations Act 1974, Sch 1, para 10(*b*). **Howard v Department of National Savings** [1981] 1 674, CA.

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International athletics association—Members consisting of national associations controlling athletics in their 'countries'—Rules providing that jurisdiction of member limited to political boundaries of 'country' it represented—Association controlling athletics in mainland China elected—Subsequently association controlling athletics on island of Taiwan elected—Taiwan not recognised as separate state under international law and treated as province of Republic of China—Taiwan remaining member of international association for 22 years—International association resolving to recognise mainland association as sole body controlling athletics on mainland and in Taiwan—Resolution in effect expelling Taiwan association from international association—Taiwan association claiming declarations that decision invalid and that it remained a member of the international association—Whether 'country' in rules meaning a nation recognised in international law—Whether resolution purporting to expel Taiwan association ultra vires. **Reel v Holder** [1981] 3 321, CA.

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UNREGISTERED COMPANY
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VALUE ADDED TAX
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Appeal against assessment in default of proper returns by taxpayer. *See* Assessment in default of proper returns by taxpayer—Sum assessed deemed to be amount of tax due from him—Appeal against assessment, *post*.

VALUE ADDED TAX (cont)
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Sum assessed deemed to be amount of tax due from him—
Appeal against assessment—Taxpayer a licensee of a public house—Assessment for period of three years based on material made available by taxpayer and on takings for a test period of five weeks—Commissioners not taking account of pilferage—Whether commissioners' assessment 'to the best of their judgment'—Finance Act 1972, s 31(1). **Van Boeckel v Customs and Excise Comrs** [1981] 2 505, QBD.
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Supply of goods or services—
Supply in course of a business—
Business—Body incorporated to propagate religion or religious philosophy—Courses provided to further that aim—Sale of books and other merchandise relating to the religious philosophy—Whether goods and services supplied in the course of a business carried on by the taxpayer—Finance Act 1972, s 2(2). **Church of Scientology of California v Customs and Excise Comrs** [1981] 1 1035, CA.
Business—Pheasant shoot—Invited guests making contributions to cost of shoot—Whether taxpayer carrying on a business—Finance Act 1972, s 2(2)(*b*) **Customs and Excise Comrs v Lord Fisher** [1981] 2 147, QBD.
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Work of repair or maintenance—Underpinning of defective foundations—Existing foundations damaged by subsidence—Building company constructing additional foundations and leaving original foundations unaltered—Whether works carried out by company 'maintenance'—Finance Act 1972, Sch 4, Group 8, item 2, note 2. **ATC Construction Ltd v Customs and Excise Comrs** [1981] 1 324, CA.
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Proof of export—Conditions imposed by commissioners—Validity—Conditions stating that exported goods to be zero-rated only if specified method of proof complied with—Whether conditions unreasonable—Finance Act 1972, s 12(7)—Value Added Tax (General) Regulations 1975 (SL 1975 No 2204), reg 44(1)—Customs and Excise Notice 703, para 10(*b*)(*c*). **Henry Moss of London Ltd v Customs and Excise Comrs** [1981] 2 86, CA.

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Maintenance agreement. *See* **Husband and wife** (Variation of maintenance agreement).

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Jury. *See* **Jury** (Majority verdict).

VEXATIOUS PROCEEDINGS
Industrial tribunal—
Complaint—
Complaint withdrawn by complainant—Industrial tribunal formally dismissing complaint—Complainant making fresh complaint on same matter within time limit for making complaint—Whether fresh complaint vexatious—Industrial Tribunals (Labour Relations) Regulations 1974 (SI 1974 No 1386), Sch, r 11(2)(*e*). **Acrow (Engineers) Ltd v Hathaway** [1981] 2 161, EAT.

VICARIOUS LIABILITY
Master and servant—
Act of a class servant authorised to do—
Act done negligently—Real estate valuations—Servant doing valuations for group of companies during period when ordered not to do business with them—Ultimate client not knowing of servant's existence or authority as a valuer—Liability of master for negligence of servant in making the valuations—Whether servant had actual authority—Whether actual authority could be inferred from fact that valuations were a class of act which servant was authorised to do. **Kooragang Investments Pty Ltd v Richardson & Wrench Ltd** [1981] 3 65, PC.

VIOLENCE
Domestic violence—
Protection order. *See* **Husband and wife** (Summary proceedings—Order for protection of party to marriage or child of the family).

VISITOR
Inns of Court—
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Disciplinary jurisdiction. *See* **Counsel** (Disciplinary jurisdiction—Judges as visitors of Inns of Court).

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Discovery of documents. *See* **Discovery** (Privilege—Waiver of privilege).

WANT OF PROSECUTION
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Practice. *See* **Arbitration** (Practice—Want of prosecution).
Dismissal of action for—
Generally. *See* **Practice** (Dismissal of action for want of prosecution).

WARD OF COURT
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Child taken into voluntary care by local authority—Application by local authority to make child a ward of court and for order committing care and control to local authority—Effect of making child in voluntary care ward of court and committing care to local authority—Local authority placing child with suitable long term foster parents after period with foster mother—Natural mother a defendant to wardship proceedings—Natural mother wishing child to be transferred back to foster mother—Whether local authority required to establish that exceptional circumstances existed making it impracticable or undesirable for child to be under natural mother's care or whether sole criterion the child's best interests—Family Law Reform Act 1969, s 7(2). **Re C B (a minor)** [1981] 1 16, CA.
Power to commit ward of court to care of local authority—
Local authority initiating wardship proceedings—Local authority applying for care and control in wardship proceedings—Undesirable for mother to have care of children—Foster parent with whom local authority placed children unable to afford to maintain children—Foster parent not a party to wardship proceedings—Whether statutory power to commit ward to care of local authority where wardship initiated by local authority—Whether conditions for exercise of statutory power fulfilled—Family Law Reform Act 1969, s 7(2). **London Borough of Lewisham v M** [1981] 3 307, FamD.
Child in care of local authority. *See* **Child** (Care—Local authority—Wardship proceedings).

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WASTE DISPOSAL
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WATER AND WATERCOURSES
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Divorce proceedings—
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Impracticable charitable gift—
Cy-près doctrine. *See* **Charity** (Cy-près doctrine—General charitable intention—Method of determining general charitable intention—Will).
Mutual wills—
Requirements for enforceable mutual wills—
Implied trust—Evidence required to establish enforceable agreement to dispose of property pursuant to mutual wills—Husband and wife making wills on same date in similar terms—Wife taking benefit under husband's will in accordance with his will—Wife making new will differing from terms of mutual wills—Whether wife under legal obligations to dispose of her estate in accordance with terms of mutual wills—Whether mere fact of simultaneity of wills in similar terms sufficient to establish enforceable agreement—Whether constructive trust arising out of enforceable agreement for mutual wills. **Re Cleaver (deceased)** [1981] 2 1018, ChD.
Privileged will. *See* Soldier's or mariner's privileged will, *post*.
Soldier's or mariner's privileged will—
Actual military service—
Soldier on patrol during armed and clandestine insurrection—Terrorist activities in Northern Ireland—Wills Act 1837, s 11. **Re Jones (deceased)** [1981] 1 1, FamD.

WINDING-UP
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WITNESS (cont)
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